# THE UNITED NATIONS AND INTERNATIONAL LAW

"More international law has been developed through the United Nations system in the past four decades than in the entire previous history of mankind."

This statement, made by UN Secretary-General Javier Pérez de Cuéllar in 1988 at the International Court of Justice, stresses one of the United Nations great achievements—the making of international law.

The UN system has initiated hundreds of multilateral treaties, covering virtually every area of State interaction and human endeavour—from the law of treaties to the law of the sea, from State activities in outer space to human rights, from health to the environment.

Other major subjects include refugees, terrorism, drug abuse and trafficking, transport and international trade.

The UN has also set universal standards on a variety of issues, from disarmament to human rights to the rights of women. Such standards have often been incorporated into national laws, and thus made mandatory in the States that accepted them.

The United Nations is the only global institution which allows all States to participate, without discrimination, in the many aspects of codifiyng and developing international law. The development of international law to this extent would not have been possible outside the framework of the United Nations.

The UN provides the forum and the machinery for starting, negotiating and concluding a convention. It also promotes the settlement through international law of differences between States. Its main judicial organ, the International Court of Justice, plays an important role in this regard.

## THE WORLD COURT

Headquartered in The Hague, Netherlands, the International Court of Justice, which is usually referred to as the World Court, has the main function of deciding, in accordance with international law, legal disputes submitted to it by States.

The Court consists of 15 Judges, elected by the UN General Assembly and the Security Council, who serve for a term of nine years. No two Judges can be from the same country.

The Court has a broad and well-recognized framework of jurisdiction, which is derived from some 300 bilateral and multilateral treaties.

States appearing before the Court undertake to comply with its judgement. Judgements are without appeal, but are binding only for the particular case and between the parties.

The disputes decided by the Court have dealt with a wide variety of subjects, including territorial rights, the delimitation of territorial waters, fishing jurisdiction, the right of passage over foreign territory, questions of nationality and the right to asylum.

Most of the disputes brought before the Court have been effectively resolved through its pronouncements. The Court has thus made a major contribution to the affirmation of international law in relations among nations.

Currently the Court is examining, for instance, a frontier dispute between El Salvador and Honduras; the downing of an Iranian airliner by a United States warship in 1988; and Australia's right to explore and exploit oil off the coast of East Timor—a right challenged by Portugal.

## HUMAN RIGHTS

A revolutionary advancement is the incorporation of human rights standards in international law.

When the United Nations started work in this area, no generally accepted human rights standards existed, apart from certain provisions in the UN Charter for promoting human rights.

In 1948 the General Assembly adopted the Universal Declaration of Human Rights. In it, the representatives of the world's Governments proclaimed that "all human beings are born free and equal in dignity and rights".

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The Declaration opened up new territory to human rights. Since its approval, many nations have either incorporated its provisions into their constitutions, or included into national laws the rights it proclaims.

The United Nations has greatly contributed to this unprecedented achievement. It has put into place a true international code of human rights, consisting of the Declaration, two International Covenants on Human Rights (legally binding and each ratified by more than 90 countries), and some 60 other instruments that define human rights and make them mandatory. Such instruments cover subjects such as racial discrimination, equality of women, treatment of detainees and prevention of torture. These treaties are subject to States' acceptance.

Many countries have introduced into their national legislation the provisions of the international human rights treaties, thus affording their citizens the legal bases for claiming respect for their rights.

The 1989 UN Convention on the Rights of the Child is a striking example: even before the General Assembly adopted it, some States had carried out revisions of their national laws based on the provisions of the draft Convention.

## ENVIRONMENTAL LAW

As environmental challenges assume global dimensions, there has been a steady growth in the number of international environmental agreements. Today there are more than 140 such agreements, about one third of which were negotiated under the auspices of the United Nations Environment Programme (UNEP).

UNEP action has resulted in major global agreements, such as the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. The Convention provides a framework for international cooperation to protect the layer, which shields the earth from the sun's harmful ultraviolet rays. The Protocol calls for a freeze in the production of ozone-damaging chemicals, and mandates a cut in half in their production by 1998 in the States parties.

The 68 parties to the Protocol account for more than 90 per cent of the global production of the chemicals it covers. Its adoption was one of the most significant achievements of the international community for the protection of our planet.

Follow-up meetings in 1989 and 1990 have further strengthened the Protocol. In 1989, for instance, 81 countries and the European Community agreed to stop production of ozone-damaging chemicals by the year 2000.

UNEP is now working on two global conventions, covering climate change caused by global warming, and conservation of our planet's biodiversity.

Other UN treaties—the 1979 Convention on Long-range Transboundary Air Pollution and its two protocols—have greatly helped reduce air pollution and acid rain in Europe and North America. For instance, sulphur emissions in the European region declined by 20 per cent over the past 10 years. These legal instruments, brought about by the UN Economic Commission for Europe, are accepted by virtually all countries of Europe and North America.

## THE LAW OF THE SEA

The Convention on the Law of the Sea is the United Nations' most important achievement in developing international maritime law.

Adopted in 1982 after ten years of complex negotiations, the Convention seeks to ensure the peaceful use of the sea by all members of the international community. Because the ocean involves so many aspects of international life, the treaty is perhaps the most sweeping act of international rule-making since the founding of the United Nations.

The treaty covers virtually every use of the oceans—navigation and overflight, resource exploration and exploitation, conservation and pollution, fishing and shipping. Its 320 articles and nine annexes are a guide for States' behaviour in the world's oceans, defining maritime zones,

laying down rules for drawing boundaries, assigning legal duties and responsibilities, and providing machinery for settling disputes.

The Convention strikes an important balance between the protection of the marine environment and the use of the ocean and its resources. It devotes an entire section to the protection of the marine environment—the first comprehensive statement of international law on the issue.

Signed by 158 States and entities, and ratified by 47, the Convention will enter into force one year after 60 States have ratified it.

## INTERNATIONAL TRADE LAW

Disparities in national laws governing international trade often hamper the flow of trade. The United Nations Commission on International Trade Law (UNCITRAL) was set up in 1966 to overcome this obstacle.

The Vienna-based body works to further the harmonization and unification of international trade law. It is made up of 36 member States, elected for six-year terms.

UNCITRAL has brought about major treaties. For instance, the 1980 UN Convention on Contracts for the International Sale of Goods established legal rules governing the formation of contracts for the international sale of goods, the obligations of the buyer and seller, remedies for breach of contract and other aspects of a contract.

The 1988 UN Convention on International Bills of Exchange and International Promissory Notes provides international instruments for use by parties to international commercial transactions. The widely used UNCITRAL Arbitration Rules provide a set of procedural rules under which parties may agree to conduct arbitral proceedings arising out of their commercial relations.

## INTERNATIONAL LAW COMMISSION

Set up in 1947, the International Law Commission works to encourage the development of international law and its codification. It is made up of 34 experts in international law, from all of the world's legal systems. They do not represent any Government, but are elected on a personal basis and work in their personal capacity.

Most of the Commission's work involves preparing drafts of treaties on topics of international law. When a draft is completed, the General Assembly usually convenes an international conference to incorporate the draft articles into a convention, which is then opened to States' acceptance.

Thus, for example:

- two conferences approved the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations;
- a conference held in 1968 and 1969 approved the Convention on the Law of Treaties;
- a conference held in 1977 and 1978 completed and adopted the Vienna Convention on Succession of States in Respect of Treaties.

Current work by the Commission includes the law of State responsibility; the law of the non-navigational uses of international watercourses; jurisdictional immunities of States and their property; and a code of crimes against the peace and security of mankind.

## IMPROVING OUR DAILY LIVES

These are but a few glimpses of the achievements of the United Nations in international law. Many other treaties promoted by the UN have a positive impact all over the world, from the 1979 Convention on the Elimination of All Forms of Discrimination against Women, which has helped promote equality, to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances—the key international treaty against drug trafficking.

"International law is not an esoteric subject," the Secretary-General noted in 1988 at the International Court of Justice. "It plays a central role in our daily lives. That role is increasing the more technically advanced and interdependent we become."

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